

Approved: Thomas John Wright  
THOMAS JOHN WRIGHT  
Assistant United States Attorney

Before: THE HONORABLE KATHARINE H. PARKER  
United States Magistrate Judge  
Southern District of New York

19MAG2125

- - - - - x  
: COMPLAINT  
:  
UNITED STATES OF AMERICA : Violation of  
: 8 U.S.C. § 1326(a)  
- v. - :  
: COUNTY OF OFFENSE:  
GUARDIN RAFAEL DE LA CRUZ-SOTO, : BRONX  
a/k/a "Guardin Rafael De La :  
Cruz Soto" :  
:  
Defendant.  
- - - - - x

SOUTHERN DISTRICT OF NEW YORK, ss.:

JEFFREY BERNDT, being duly sworn, deposes and says that he is a Deportation Officer with the United States Department of Homeland Security, Immigration and Customs Enforcement ("ICE"), and charges as follows:

COUNT ONE

(Illegal Reentry)

1. From at least on or about January 31, 2019, in the Southern District of New York and elsewhere, GUARDIN RAFAEL DE LA CRUZ-SOTO, a/k/a "Guardin Rafael De La Cruz Soto," the defendant, being an alien, unlawfully did enter, and was found in, the United States, after having been removed from the United States, without having obtained the express consent of the Attorney General of the United States or his successor, the Secretary for the Department of Homeland Security, to reapply for admission.

(Title 8, United States Code, Section 1326(a).)

2. The bases for my knowledge and for the foregoing charge are, in part, described in the following paragraphs.

3. I am a Deportation Officer with ICE, and I have been personally involved in the investigation of this matter. This affidavit is based upon my personal participation in the investigation of this matter, my conversations with law enforcement officers and other individuals, as well as my examination of reports and other records. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported in this Complaint, they are reported in substance and in part, except where otherwise indicated.

4. Based on my review of records maintained by ICE and other law enforcement agencies regarding GUARDIN RAFAEL DE LA CRUZ-SOTO, a/k/a "Guardin Rafael De La Cruz Soto," the defendant, I have learned, among other things, the following, in substance and in part:

a. "Guardin Rafael De La Cruz-Soto" is a native and citizen of the Dominican Republic and is not and has never been a citizen of the United States.

b. On or about August 5, 2009, "Guardin Rafael De La Cruz-Soto" was removed from the United States to the Dominican Republic pursuant to an order of removal issued on or about July 1, 2009 (the "2009 Removal").

c. ICE has performed searches of indices maintained by ICE and confirmed that following the 2009 Removal, GUARDIN RAFAEL DE LA CRUZ-SOTO, a/k/a "Guardin Rafael De La Cruz Soto," the defendant, never obtained the express consent of the Attorney General of the United States, or the Secretary for the Department of Homeland Security, to reapply for admission to the United States.

5. Based on my conversations with law enforcement officers and other individuals and my review of records maintained by ICE and other law enforcement agencies, I have learned, among other things, the following, in substance and in part:

a. On or about January 31, 2019, "Guardin Rafael De La Cruz Soto" was arrested by the New York City Police Department (the "NYPD") in Bronx County, New York, for multiple crimes, including Criminal Possession of a Weapon in the Second Degree, in violation of New York Penal Law § 265.03(1)(b) under which "[a] person is guilty . . . when . . . with intent to use

the same unlawfully against another, such person . . . possesses a loaded firearm" (the "2019 Arrest").

b. In connection with the 2019 Arrest, the NYPD captured the fingerprints of "Guardin Rafael De La Cruz Soto," which identified that he had previously been removed from the United States to the Dominican Republic.

c. At present, "Guardin Rafael De La Cruz Soto" is bailed in connection with criminal proceedings arising from the 2019 Arrest.

6. I have reviewed the report of a law enforcement officer trained in fingerprint analysis and comparison, who has reviewed and compared: (1) two fingerprint impressions bearing the name "Guardin Rafael De La Cruz-Soto," taken by ICE on or about July 1, 2009 and August 5, 2009 in connection with the 2009 Removal and (2) a fingerprint impression bearing the name "Guardin Rafael De La Cruz Soto," taken by the NYPD in connection with the 2019 Arrest. This law enforcement officer trained in fingerprint analysis and comparison concluded that the three fingerprint impressions were made by one and the same individual, namely GUARDIN RAFAEL DE LA CRUZ-SOTO, a/k/a "Guardin Rafael De La Cruz Soto," the defendant.

WHEREFORE, deponent respectfully requests that an arrest warrant be issued for GUARDIN RAFAEL DE LA CRUZ-SOTO, a/k/a "Guardin Rafael De La Cruz Soto," the defendant, and that he be arrested, and imprisoned or bailed, as the case may be.

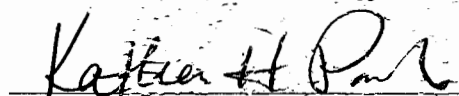


JEFFREY BERNDT

Deportation Officer

United States Department of Homeland  
Security, Immigration and Customs  
Enforcement

Sworn to before me this  
1st day of March, 2019



THE HONORABLE KATHARINE H. PARKER  
United States Magistrate Judge  
Southern District of New York